

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>TERRA WALKER, <i>et al</i></b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>Case No. 14-cv-914-D</b>
	)	
<b>v.</b>	)	<b>CLASS ACTION</b>
	)	
<b>APEX WIND CONSTRUCTION, LLC, <i>et al.</i></b>	)	
	)	
<b>Defendants.</b>	)	

**PLAINTIFFS' MOTION FOR HEARING  
ON DEFENDANTS'<sup>1</sup> MOTION TO DISMISS**

**COME NOW** Plaintiffs Terra Walker, Cheyenne Ward, Julie Harris, Janelle Grellner, Elise Kochenower, Karri Parson, Cindy Shelley, and Oklahoma Wind Action Association (herein collectively "Plaintiffs"), and move this Court for hearing on Certain Defendants' Motion to Dismiss and Supporting Brief [Doc. No. 15] (herein "Defendants' Motion"). In support thereof, Plaintiffs state as follows:

1. Plaintiffs filed this action on August 27, 2014, seeking to enjoin Defendants from constructing and operating a windfarm in Canadian and Kingfisher Counties that would injure the surrounding residents and landowners.

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<sup>1</sup> Although the text of Certain Defendants' Motion to Dismiss and Supporting Brief [Doc. No. 15] does not identify which defendants brought the motion, it was filed by Defendants Apex Clean Energy Holdings, LLC, Apex Wind Construction, LLC, Campbell Creek Wind, LLC, Campbell Creek Wind Transmission, LLC, Kingfisher Transmission, LLC, and Kingfisher Wind, LLC. Shortly after Certain Defendants' Motion to Dismiss and Supporting Brief [Doc. No. 15] was filed, Defendant Kingfisher Wind Land Holdings, LLC, filed its Joinder to Certain Defendants' Motion to Dismiss and Supporting Brief [Doc. No. 17].

2. On September 23, 2014, Defendants Apex Clean Energy Holdings, LLC, Apex Wind Construction, LLC, Campbell Creek Wind, LLC, Campbell Creek Wind Transmission, LLC, Kingfisher Transmission, LLC, and Kingfisher Wind, LLC, filed their Motion to Dismiss Plaintiffs' Complaint [Doc. No. 15]. That same day Defendant Kingfisher Wind Land Holdings, LLC, filed its Joinder to Certain Defendants' Motion to Dismiss and Supporting Brief [Doc. No. 17].

3. Briefing was completed on the Motion to Dismiss [Doc. No. 15] ~~was completed~~ on October 21, 2014, with the filing of Defendants Apex Clean Energy Holdings, LLC, Apex Wind Construction, LLC, Campbell Creek Wind, LLC, Campbell Creek Wind Transmission, LLC, Kingfisher Transmission, LLC, and Kingfisher Wind, LLC's Reply Brief [Doc. No. 36].

4. Upon information, belief, and investigation, Plaintiffs believe Defendants intend to begin construction of their windfarm in Canadian and Kingfisher Counties in March of 2015.

5. The planned windfarm will seriously threaten the health and safety of Plaintiffs' families. The windfarm will produce sound, vibrations, and disturbances in air pressure that is known to cause adverse health effects, such as developmental problems in children and disturb an individual's ability to think and concentrate. *See e.g.* Complaint at ¶¶49-52 [Doc. No. 1]. Resolution of this case will protect Plaintiffs and their families from suffering an irreparable injury by the planned windfarm. Further delay of resolving this issue will deny Plaintiffs the opportunity to seek the justice they deserve to protect their rights.

6. Counsel for Plaintiffs has contacted counsel for Defendants about setting a merits briefing schedule that would allow resolution of the case before the planned construction. *See* Exhibit 1, Letter from Aamodt to Woolery (Dec. 22, 2014). However, counsel for Defendants indicated that he would rather wait for a decision on the Motion to Dismiss. *See* Exhibit 2, Letter from Woolery to Aamodt (Dec. 29, 2014).

7. Accordingly, Plaintiffs respectfully request that this Court set Defendants' Motion to Dismiss [Doc. No. 15] for hearing so that the parties may present oral argument.

Respectfully Submitted,

/s/ Dallas L.D. Strimple

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***ATTORNEYS FOR PLAINTIFFS***

**CERTIFICATE OF SERVICE**

I hereby certify that on January 9, 2015, I electronically transmitted the foregoing to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

J Todd Woolery  
Timothy J Bomhoff  
Jodi C Cole  
Patrick L Stein  
Clayton D Ketter  
Thomas G Wolfe

/s/Dallas L.D. Strimple  
Dallas L.D. Strimple